Texas Department of Insurance
Division of Workers' Compensation
Medical Fee Dispute Resolution, MS-48
7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645
512-804-4000 telephone • 512-804-4811 fax • www.tdi.texas.gov

MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name and Address

MEMORIAL HERMANN HOSPITAL SYSTEM
3200 SW FREEWAY SUITE 2200
HOUSTON TX 77027

DWC Claim #:
Injured Employee:
Date of Injury:
Employer Name:
Insurance Carrier #:

Respondent Name
TEXAS MUTUAL INSURANCE CO

Carrier's Austin Representative Box
Box Number 54

MFDR Tracking Number
M4-06-3721-01

MFDR Date Received
JANUARY 31, 2006

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "…The amount paid by the carrier falls below the expected reimbursement rate of fair and reasonable reimbursement under the Acute Care Inpatient Hospital Fee Guideline (ACIHFG) found in Commission Rule 134.400. Because this admit was for trauma falling within diagnostic codes ICD9 – 800.0 – 959.5, the entire admission should be reimbursed at a fair and reasonable rate under Rule 134.401(c)(5). The carrier instead paid the claim using an indeterminable reimbursement method. For instance, a review of the carrier's EOB reveals that Texas Mutual paid the room and board charge at 100%, and a portion of the pharmacy and implant charges, but then denied the remainder of the hospital's charges in toto [sic]. In all, the carrier took reductions in excess of 80% from the hospital's usual and customary charges for reasons unexplained. No copy of any alleged audit has been provided to the undersigned, but a reduction in excess of 80% in full billed charges is on its face, inherently unreasonable… Memorial Hermann should receive higher reimbursements rates for trauma and burn cases due to the unforeseen level of treatment and care necessary for major trauma and burn victims, and the facilities and services available to provide that level of care. It is the hospital's position that a unilateral reduction of its usual and customary charges by over 80% is inherently unfair and unacceptable from a commercial insurance company. Even negotiated managed care rates provide reimbursement levels much higher that 20%, and those are agreed to up front. In this case, the carrier seems to be taking advantage of an unknown fee guideline to pay far less than would be acceptable in any other commercial insurance setting. The amount paid by this carrier does not constitute a fair and reasonable rate of reimbursement."

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Amount in Dispute: $23,885.38

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "…In the absence of an established MAR for a service the payment is subject to fair and reasonable reimbursement standards. Currently, that standard, practically speaking, is a percentage of Medicare. Texas Mutual took the billing information associated with this dispute and inputted it into Medicare's Inpatient Prospective Payment (PPS) system software available on Medicare's website. Price 04=5, Medicare's software, takes the provider's Medicare number, in this case 450068 found in box 51 of the UB; the claimants social security number, found in box 60; the DRG, in this case 229, found in box 78; and the admitting and discharge dates, found in box 6, and outputs what Medicare would pay to the hospital with provider number 450068, i.e. MHHS Hermann Hospital. According to Pricer 05 Medicare would pay $8,775.40. In 2002 the Commission, now DWC, contracted with Ingenix, Inc. to develop MARs for inpatient hospitalization treatment. Ingenix recommended a percentage range of Medicare from 107% to 121%. To convert the Pricer dollar amount

to the Ingenix recommended MAR $8,775.40 is multiplied by 121%, which equals $10,618.23. Texas Mutual paid $7,298.14, $3,320.09, below the recommended MAR."

Response Submitted by: Texas Mutual Insurance Co., 6210 E. Hwy. 290, Austin, TX 78723

SUMMARY OF FINDINGS

Date(s) of Service	Disputed Services	Amount In Dispute	Amount Due
February 7, 2005 through February 10, 2005	Inpatient Services	$23,885.38	$0.00

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §134.401 sets out the fee guideline for acute care inpatient hospital services.
3. 28 Texas Administrative Code §134.1 provides for fair and reasonable reimbursement of health care in the absence of an applicable fee guideline.
4. Texas Labor Code §413.011 sets forth provisions regarding reimbursement policies and guidelines.
5. The services in dispute were reduced/denied by the respondent with the following reason codes:
   - CAC-150 – Payment adjusted because the payer deems the information submitted does not support this level of service.
   - CAC-97 – Payment is included in the allowance for another service/procedure.
   - 217-The value of this procedure is included in the value of another procedure performed on this date.
   - 426-Reimbursed to fair and reasonable.
   - CAC-W1 – Workers Compensation State Fee Schedule adjustment.
   - CAC-W4 – No additional reimbursement allowed after review of appeal/reconsideration.
   - CAC-143 – Portion of payment deferred.
   - 420 – Supplemental payment.
   - 790 – This charge was reduced in accordance to the Texas Medical Fee Guideline.
   - 891 – The insurance company is reducing or denying payment after reconsidering a bill.

Findings

1. The carrier denied services using the denial code 150 – "Payment adjusted because the payer deems the information submitted does not support this level of service." Review of the explanation of benefits with audit date May 19, 2006 finds that the carrier did not maintain this denial reason upon reconsideration. Nor did the respondent submit documentation to support the position that the disputed service was unnecessary medical treatment. The Division therefore concludes that this denial reason is not supported. The services will be reviewed per applicable statutes and Division rules.
2. This dispute relates to inpatient surgical services provided in a hospital setting with reimbursement subject to the provisions of former 28 Texas Administrative Code §134.401(c)(5)(A), which requires that when "Trauma (ICD-9 codes 800.0-959.50)" diagnosis codes are listed as the primary diagnosis, reimbursement for the entire admission shall be at a fair and reasonable rate. Review of box 67 on the hospital bill finds that the principle diagnosis code is listed as 812.21. The Division therefore determines that this inpatient admission shall be reimbursed at a fair and reasonable rate pursuant to Division rule at 28 Texas Administrative Code §134.1 and Texas Labor Code §413.011(d).
3. Texas Administrative Code §134.1, effective May 16, 2002, 27 *Texas Register* 4047, requires that, in the absence of an applicable fee guideline, reimbursement for health care not provided through a workers' compensation health care network shall be made in accordance with subsection §134.1(d) which states that "Fair and reasonable reimbursement: (1) is consistent with the criteria of Labor Code §413.011; (2) ensures that similar procedures provided in similar circumstances receive similar reimbursement; and (3) is based on nationally recognized published studies, published Division medical dispute decisions, and values assigned for services involving similar work and resource commitments, if available."

4. Texas Labor Code §413.011(d) requires that fee guidelines must be fair and reasonable and designed to ensure the quality of medical care and to achieve effective medical cost control. The guidelines may not provide for payment of a fee in excess of the fee charged for similar treatment of an injured individual of an equivalent standard of living and paid by that individual or by someone acting on that individual's behalf. It further requires that the Division consider the increased security of payment afforded by the Act in establishing the fee guidelines.
5. 28 Texas Administrative Code §133.307(c)(2)(G), effective January 1, 2003, 27 Texas Register 12282, applicable to requests filed on or after January 1, 2003, requires the requestor to provide "documentation that discusses, demonstrates, and justifies that the amount being sought is a fair and reasonable rate of reimbursement in accordance with §134.1 of this title (relating to Medical Reimbursement) when the dispute involves health care for which the Division has not established a maximum allowable reimbursement (MAR), as applicable." Review of the submitted documentation finds that:
   - The requestor seeks full reimbursement of billed charges based upon "It is the hospital's position that a unilateral reduction of its usual and customary charges by over 80% is inherently unfair and unacceptable from a commercial insurance company. Even negotiated managed care rates provide reimbursement levels much higher that 20%, and those are agreed to up front. In this case, the carrier seems to be taking advantage of an unknown fee guideline to pay far less than would be acceptable in any other commercial insurance setting. The amount paid by this carrier does not constitute a fair and reasonable rate of reimbursement."
   - The requestor did not provide documentation to demonstrate how it determined that full reimbursement of billed charges was fair and reasonable.
   - Documentation of the amount of reimbursement received for these same or similar services was not presented for review.
   - The requestor did not provide documentation to demonstrate how it determined its usual and customary charges for the disputed services.
   - The Division has previously found that "hospital charges are not a valid indicator of a hospital's costs of providing services nor of what is being paid by other payors," as stated in the adoption preamble to the Division's former *Acute Care Inpatient Hospital Fee Guideline*, 22 *Texas Register* 6276. It further states that "Alternative methods of reimbursement were considered… and rejected because they use hospital charges as their basis and allow the hospitals to affect their reimbursement by inflating their charges…" 22 *Texas Register* 6268-6269. Therefore, the use of a hospital's "usual and customary" charges cannot be favorably considered when no other data or documentation was submitted to support that the payment amount being sought is a fair and reasonable reimbursement for the services in dispute.
   - The requestor did not submit documentation to support that payment of the amount sought is a fair and reasonable rate of reimbursement for the services in this dispute.
   - The requestor did not submit nationally recognized published studies or documentation of values assigned for services involving similar work and resource commitments to support the requested reimbursement.
   - The requestor did not support that payment of the requested amount would satisfy the requirements of 28 Texas Administrative Code §134.1.

   The request for additional reimbursement is not supported. Thorough review of the documentation submitted by the requestor finds that the requestor has not demonstrated or justified that payment of the amount sought would be a fair and reasonable rate of reimbursement for the services in dispute. Additional payment cannot be recommended.

Conclusion

The Division would like to emphasize that individual medical fee dispute outcomes rely upon the evidence presented by the requestor and respondent during dispute resolution, and the thorough review and consideration of that evidence. After thorough review and consideration of all the evidence presented by the parties to this dispute, it is determined that the submitted documentation does not support the reimbursement amount sought by the requestor. The Division concludes that this dispute was not filed in the form and manner prescribed under Division rules at 28 Texas Administrative Code §133.307. The Division further concludes that the requestor failed to support its position that additional reimbursement is due. As a result, the amount ordered is $0.00.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is entitled to $0.00 reimbursement for the services in dispute.

Authorized Signature

		November 29, 2012
Signature	Medical Fee Dispute Resolution Officer	Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party**.

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.